

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2225

To amend title 23, United States Code, to require States to enter into contracts with private persons to finance construction of toll facilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 20, 1993

Mr. KIM introduced the following bill; which was referred to the Committee on Public Works and Transportation

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## A BILL

To amend title 23, United States Code, to require States to enter into contracts with private persons to finance construction of toll facilities, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Highway Construction  
5       Private Investment Act of 1993”.

6       **SEC. 2. INCLUSION OF INTERSTATE SYSTEM IN TOLL ROAD**  
7                               **PROGRAM.**

8       Section 129(a)(1) of title 23, United States Code, is  
9       amended—

1           (1) in subparagraph (A) by striking “(other  
2       than a highway, bridge, or tunnel on the Interstate  
3       System)”; and

4           (2) in subparagraph (D) by striking “(other  
5       than a highway on the Interstate System)”.

6   **SEC. 3. MINIMUM OBLIGATIONS FOR PRIVATELY FINANCED**  
7                   **TOLL FACILITIES.**

8       Section 129 of title 23, United States Code, is  
9   amended by adding at the end the following new sub-  
10 section:

11       “(e) PRIVATE PARTICIPATION IN FINANCING OF  
12 TOLL FACILITIES.—

13           “(1) MINIMUM OBLIGATIONS.—

14               “(A) GENERAL RULE.—In order not to  
15       have funds withheld under paragraph (2), each  
16       State shall enter into in each fiscal year begin-  
17       ning after September 30, 1993, under sub-  
18       section (a) contracts with private persons to fi-  
19       nance construction of toll facilities which re-  
20       quire the private persons to obligate under such  
21       contracts in the aggregate an amount equal to  
22       or exceeding the State’s aggregate apportion-  
23       ment amount for such fiscal year.

24               “(B) AGGREGATE APPORTIONMENT  
25       AMOUNT DEFINED.—As used in this subsection,

1 the term ‘aggregate apportionment amount’  
2 means—

3 “(i) in the case of fiscal year 1994, 15  
4 percent of the aggregate amount of funds  
5 apportioned to the State for fiscal year  
6 1994 under sections 104, 144, 157, and  
7 160 of this title and sections 1013(c) and  
8 1015 of the Intermodal Surface Transpor-  
9 tation Efficiency Act of 1991;

10 “(ii) in the case of fiscal year 1995,  
11 20 percent of the aggregate amount of  
12 funds apportioned to the State for fiscal  
13 year 1995 under such sections; and

14 “(iii) in the case of fiscal year 1996  
15 and thereafter, 25 percent of the aggregate  
16 amount of funds apportioned to the State  
17 for the fiscal year under such sections.

18 “(2) WITHHOLDING OF APPORTIONMENTS.—

19 “(A) IN GENERAL.—If a State does not  
20 enter into contracts described in paragraph (1)  
21 in a fiscal year which require private persons to  
22 obligate under such contracts an aggregate  
23 amount equal to or exceeding the State’s aggre-  
24 gate apportionment for such fiscal year, the  
25 Secretary shall withhold from apportionment

1 under sections 104, 144, 157, and 160 of this  
2 title and sections 1013(c) and 1015 of the  
3 Intermodal Surface Transportation Efficiency  
4 Act of 1991 on the first day of the succeeding  
5 fiscal year an amount equal to the difference  
6 between the aggregate apportionment amount  
7 and the amount required to be obligated under  
8 such contracts.

9 “(B) TREATMENT.—The amount to be  
10 withheld from apportionment to a State under  
11 subparagraph (A) shall be withheld proportion-  
12 ately from each of the apportionments to the  
13 State under the sections referred to under sub-  
14 paragraph (A).

15 “(3) OBLIGATION AUTHORITY.—

16 “(A) TREATMENT OF WITHHELD APPOR-  
17 TIONMENTS; CORRESPONDING OBLIGATION AU-  
18 THORITY.—For purposes of imposition of any  
19 limitation on obligations for Federal-aid high-  
20 ways and highway safety construction pro-  
21 grams, funds withheld from apportionment to a  
22 State under paragraph (2) for a fiscal year  
23 shall be treated as having been apportioned to  
24 the State for the fiscal year; except that obliga-  
25 tion authority under such limitation correspond-

1           ing to the funds so withheld from apportion-  
2           ment shall be distributed in accordance with  
3           subparagraph (B).

4           “(B) DISTRIBUTION OF OBLIGATION AU-  
5           THORITY.—Obligation authority corresponding  
6           to funds withheld from apportionment under  
7           paragraph (2) shall be—

8                   “(i) distributed to the State from  
9                   which such funds were withheld if the Sec-  
10                  retary finds under paragraph (4) that the  
11                  State made good faith efforts to enter into  
12                  contracts described in paragraph (1); or

13                  “(ii) distributed proportionately  
14                  among the States to which such funds are  
15                  apportioned under paragraph (5) if the  
16                  Secretary does not make such a finding.

17           “(4) APPORTIONMENT OF WITHHELD FUNDS.—

18           If, before October 31 of such fiscal year, a State  
19           from which funds are withheld from apportionment  
20           for a fiscal year under paragraph (2) demonstrates  
21           to the satisfaction of the Secretary that it used good  
22           faith efforts to enter into contracts described in  
23           paragraph (1) in the preceding fiscal year which re-  
24           quire private persons to obligate an aggregate  
25           amount which equals or exceeds the State’s aggre-

1       gate apportionment amount for such fiscal year, the  
2       Secretary shall apportion, on the date of making  
3       such finding, to the State the withheld funds.

4               “(5)    REAPPORTIONMENT    OF    WITHHELD  
5       FUNDS.—

6               “(A) IN GENERAL.—If, before October 31  
7       of a fiscal year, the Secretary does not find that  
8       a State made the good faith efforts referred to  
9       in paragraph (4), the Secretary shall apportion,  
10      not later than November 10 of such fiscal year,  
11      the funds withheld from apportionment to the  
12      State among those States which entered into  
13      contracts described in paragraph (1) in the pre-  
14      ceding fiscal year which required private per-  
15      sons to obligate an aggregate amount exceeding  
16      those State’s respective aggregate apportion-  
17      ment amounts for such fiscal year. Such funds  
18      shall be apportioned among such States so that  
19      each of such States is apportioned an amount  
20      determined by multiplying the amount of funds  
21      withheld from apportionment and the quotient  
22      of—

23                       “(i) the percentage by which—

24                               “(I) the aggregate amount which  
25                               was actually required to be obligated

1 by private persons under contracts de-  
2 scribed in paragraph (1) and entered  
3 into in the preceding fiscal year with  
4 the State for which determination is  
5 being made; exceeds

6 “(II) the aggregate apportion-  
7 ment amount for the preceding fiscal  
8 year of the State for which the deter-  
9 mination is being made; divided by

10 “(ii) the aggregate of all such percent-  
11 ages for all such States.

12 “(B) TRANSFER TO STP APPORTION-  
13 MENT.—Subject to subparagraph (C), the Sec-  
14 retary shall transfer amounts apportioned to a  
15 State under this paragraph to the apportion-  
16 ment of such State under section 104(b)(3) for  
17 the surface transportation program.

18 “(C) LIMITATION ON APPLICABILITY OF  
19 CERTAIN REQUIREMENTS OF STP PROGRAM.—  
20 The following provisions of section 133 of this  
21 title shall not apply to the amounts transferred  
22 under subparagraph (B) to the apportionment  
23 of the State for the surface transportation pro-  
24 gram:

25 “(i) Subsection (d)(1).

1 “(ii) Subsection (d)(2).

2 “(iii) Subsection (d)(3).”.

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